

**PT 01-62**

**Tax Type: Property Tax**

**Issue: Religious Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

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**CHRIST CHURCH  
OF CHICAGO,  
APPLICANT**

**v.**

**ILLINOIS DEPARTMENT  
OF REVENUE**

**No. 00-PT-0072  
(99-16-0871)  
P.I.N: 13-01-228-001**

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**RECOMMENDATION FOR DISPOSITION  
PURSUANT TO APPLICANT'S MOTION FOR SUMMARY JUDGMENT**

**APPEARANCE:** Mr. Rudolf G. Schade of Cassiday, Schade & Gloor on behalf of the Christ Church of Chicago (hereinafter the "applicant").

**SYNOPSIS:** This matter comes to be considered pursuant to applicant's motion for summary judgment. Applicant filed this motion after the Illinois Department Of Revenue (hereinafter the "Department") issued a determination in this matter on September 28, 2000. Said determination found, in pertinent part, that the parsonage situated on real estate identified by Cook County Parcel Index Number 13-01-228-001 (hereinafter the "portion in dispute" or the "parsonage"), and a proportionate amount of its underlying land,<sup>1</sup> were not in exempt use on or after November 24, 1999, and therefore, did not qualify for exemption from real estate taxes for 10% of the 1999

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1. The real estate identified above also contains applicant's main church facility. Said facility is not at issue herein because it is already exempt for the period in question under terms of the Department's initial determination.

assessment year, under Section 15-40 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq* (hereinafter the “Code”).

At issue herein is whether the parsonage was “used exclusively for religious purposes,” as required by Section 15-40 of the Code, during that 10% of the 1999 assessment year which took place on or after November 24, 1999.<sup>2</sup> The underlying controversy arises as follows:

Applicant filed a Real Estate Tax Exemption Complaint with the Cook County Board of Review (hereinafter the “Board”) on February 16, 2000. The Board reviewed applicant’s complaint and recommended to the Department that the entire subject property, including the portion in dispute, be exempt as of November 24, 1999. The Department, however, partially rejected this Recommendation by issuing the aforementioned determination, which, in pertinent part, found that the parsonage was not in exempt use during the period in question.

Applicant filed a timely appeal as to this partial denial but then filed this motion for summary judgment. Following a careful review of that motion and its supporting documentation, I recommend that the parsonage be exempt from real estate taxation for 10% of the 1999 assessment year.

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2. Applicant’s motion seeks relief for 1999 and tax years subsequent thereto. However, the only exemption complaint that is presently before me is the one that pertains to the 1999 assessment year.

Each tax year constitutes a separate cause of action for exemption purposes. People ex rel. Tomlin v. Illinois State Bar Ass’n, 89 Ill. App.3d 1005, 1013 (4<sup>th</sup> Dist. 1980). For this reason, applicant may be required to relitigate its entitlement to a property tax exemption on an annual basis. Jackson Park Yacht Club v. Department of Local Government Affairs, 93 Ill. App.3d 542 (1st Dist. 1981); Fairview Haven v. Department of Revenue, 153 Ill. App.3d 763 (4<sup>th</sup> Dist. 1987). Therefore, the exemption

**FINDINGS OF FACT:**

1. The Department's jurisdiction over this matter and its position therein are established by the determination, issued by the Office of Local Government Services on September 28, 2000. Administrative Notice.
2. The Department's position in this case is, for present purposes, that the parsonage was not in exempt use during that 10% of the 1999 assessment year which transpired between November 24, 1999 and December 31, 1999. *Id*
3. Applicant, an affiliate of the United Church of Christ, obtained ownership of the subject property, Chicago, IL, by means of a warranty deed dated November 24, 1999. Applicant Motion Ex. 3.
4. The Application for Property Tax Exemption (hereinafter the "Application"), filed with the Department on May 19, 2000, indicates that the subject property is located at 4045-47 Rockwell, Chicago, IL and improved with a church facility and parsonage.
5. Only the parsonage is presently at issue because the church facility is already exempt for the relevant period under terms of the Department's determination.
6. Applicant did not use the parsonage for housing-related purposes immediately after the date of purchase because it was without a full time-minister at that time. It did, however, continuously use the parsonage for: (a) storage of file cabinets, blackboards, desks and other church-related equipment; and, (b) various church meetings, from November 24, 1999 until its full time minister assumed her duties on February 14, 2001. Applicant Motion Group Ex. No. 4.

**CONCLUSIONS OF LAW:**

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claims for tax years subsequent to 1999 are not properly raised in this proceeding and

Summary judgment is appropriate where there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. 735 ILCS 5/2-1005(c). There are no contested facts in this case. Therefore, the issue for decision herein necessarily becomes one of law. Evangelical Alliance Mission v. Department of Revenue, 164 Ill. App.3d 431, 439 (2<sup>nd</sup> Dist. 1987). That issue is, precisely stated, whether applicant's post acquisitional uses of the parsonage qualify as "exclusively ... religious," as within the meaning of Section 15-40 of the Property Tax Code.

Sections 15-40 provides, in relevant part, for exemption of the following:

**200/15-40. Religious purposes, orphanages, or school and religious purposes**

All property used exclusively<sup>3</sup> for religious purposes,<sup>4</sup> or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise use with a view to a profit, is exempt, including all such property owned by churches or religious institutions or denominations and use in conjunction therewith as housing facilities provided for ministers ... performing the duties of the vocation as ministers at such churches or religious institutions or for such religious denominations... [.]

A parsonage ... or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution or denomination requires that the above-listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

35 ILCS 200/15-40.

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shall receive no further consideration herein.

3. The word "exclusively" when used in Section 200/15-40 and other property tax exemption statutes means the "the primary purpose for which property is used and not any secondary or incidental purpose." Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993).

4. As applied to the uses of property, a religious purpose means "a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction." People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911).

Statutes conferring property tax exemptions are to be strictly construed, with all facts construed and debatable questions resolved in favor of taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Moreover, applicant bears the burden of proving by clear and convincing evidence that the property it is seeking to exempt falls within the appropriate statutory exemption. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App.3d 678 (4th Dist. 1994).

The applicable statute herein mandates that applicant demonstrate that it actually put the subject property to some specifically identifiable exempt use during the period in question. *See*, 35 ILCS 200/15-40 *Compare*, Antioch Missionary Baptist Church v. Rosewell, 119 Ill. App.3d 981 (1st Dist. 1983) (church property that was intended for religious use, yet completely vacant throughout tax year in question, held non-exempt); *with*, Lutheran Church of the Good Shepherd of Bourbonnais v. Illinois Department Of Revenue, 316 Ill. App.3d 828 (3<sup>rd</sup> Dist. 2000) (church property that was being actively tilled and mowed for eventual use as an extension to an existing church yard held exempt).

At first glance, this case appears to be similar to Antioch Missionary Baptist Church in that applicant did not actually use the portion in dispute for its intended purpose, a parsonage, during the period in question. Thus, one could reasonably conclude, as did the Department, that said portion was not in exempt use throughout such period because Section 15-40 requires actual, rather than intended, use. Antioch

Missionary Baptist Church, *supra*.<sup>5</sup> Nevertheless, nothing in Section 15-40 or the case law promulgated thereunder bars exemption if the property is actually put to an alternative use which qualifies as “exclusively religious.”

Applicant actually used the portion in dispute for storage of church-related materials and various church meetings throughout the period in question. Such uses qualify as “exclusively religious” because they are reasonably necessary to promote the religious activities taking place at applicant’s main church facility. *Accord*, Evangelical Hospitals Corporation v. Department of Revenue, 233 Ill. App.3d 225 (2nd Dist. 1991). Therefore, the Department’s initial determination concerning the portion in dispute, which appears to have been based on an initial lack of proper information that applicant cured via the evidence it attached to its motion for summary judgment, should be reversed as a matter of law.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that the parsonage situated on Cook County Parcel Index Number 13-01-228-001, and all of its underlying ground, be exempt from real estate taxation for 10% of the 1999 assessment year under Section 15-40 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.*

10/4/01

Date

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Alan I. Marcus  
Administrative Law Judge

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5. *See also*, Skil Corporation v. Korzen, 32 Ill.2d 249 (1965); Comprehensive Training and Development Corporation v. County of Jackson, 261 Ill. App.3d 37 (5th Dist. 1994). (holding that actual, and not intended use, is decisive on the question of exempt use).